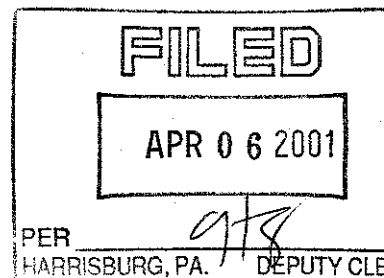


ORIGINAL

2 to CR w/0

(19)  
4-9-0  
sc

IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA



SAMSON OMOSEFUNMI  
Plaintiff

v.

YORK COUNTY PRISON, THOMAS HOGAN,  
WARDEN, DENNIS W. BOWEN, DEPUTY  
WARDEN, CAPTAIN FRANK KLUYBER, JR.,  
OFFICER MARK LUTZ, OFFICER EVERHART,  
OFFICER FRANCISCO, and J. HUMMEL,  
MEDICAL DIRECTOR,  
Defendants

NO: 1 : CV - 00 -2228

(Judge William W. Caldwell)

**DEFENDANT'S RULE 12(B) (6) MOTION**

The defendants, Kluyber, Lutz, Everhart, Francisco, and Jane Doe by and through their attorney Donald L. Reihart, Esquire, move your honorable court to dismiss Plaintiff's complaint for failure to state a claim upon which relief can be granted for the following reasons:

(1)

42 U.S.C. § 1997 (e) provides:

No action shall be brought with respect to prison conditions under section 1979 of the revised statutes of the United States, {42 U.S.C. § 1983}, or any other Federal Law by a prisoner confined in any jail, prison, or other correctional

facility until such administrative remedies as are available are exhausted.

(2)

York County Prison has administrative remedies, which were in place at the time of the events described in Plaintiff's complaint. which include providing a prisoner with a legitimate complaint with money damages, changes in procedure and equitable relief.

(3)

Plaintiff has failed to comply with 42 U.S.C. § 1997 (e) in that he has failed to file grievances and exhaust administrative remedies available to him concerning all of the prison conditions alleged in his complaint.

(4)

The claims set forth in Plaintiff's complaint are without foundation and should be dismissed as frivolous and malicious.

Respectfully submitted,

By: 

Donald L. Reihart, Esq.  
Sup. Ct. I.D. #07421  
2600 Eastern Boulevard  
Suite 204  
York, PA 17402-2904  
Telephone (717) 755-2799

Assistant Solicitor for York County

Dated: 4/5/01

CERTIFICATE OF SERVICE

I, Donald L. Reihart, Esquire certify that a true and correct copy of the foregoing Defendant's Rule 12(b) (6) Motion was caused to be served on the date shown below by depositing same in the United States mail, first-class, postage prepaid thereon, addressed as follows:

Samson Omosefunmi  
#026864117  
4250 Federal Drive  
Batavia, NY 14020

Respectfully submitted,

By: 

Donald L. Reihart, Esq.  
Sup. Ct. I.D. #07421  
2600 Eastern Boulevard  
Suite 204  
York, PA 17402-2904  
Telephone (717) 755-2799

Assistant Solicitor for York County

Dated: 4/5/01